

AMENDED IN SENATE SEPTEMBER 2, 1997

AMENDED IN SENATE AUGUST 25, 1997

AMENDED IN SENATE JUNE 30, 1997

AMENDED IN SENATE JUNE 16, 1997

AMENDED IN ASSEMBLY MAY 1, 1997

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 57**

**Introduced by Assembly Member Escutia**

December 2, 1996

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An act to amend Sections 44015, 44017, 44056, and 44091 of, to add Sections 44001.3 and 44017.1 to, to repeal Section 44015.3 of, and to repeal and add Section 44062.1 of, the Health and Safety Code, relating to air pollution.

### LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Escutia. Air pollution: vehicles: repair.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs; requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances; and requires all motor vehicles that are registered in designated areas of the state to biennially obtain a certificate of compliance or

noncompliance with motor vehicle emission standards, except for certain exempted motor vehicles. Existing law provides that the cost limit for repairs under the smog check program shall be a minimum of \$450, except as specified. Existing law requires the issuance of an emission cost waiver for a motor vehicle that has been properly tested but does not meet the applicable emission standards, if no adjustment or repair will reduce emissions from the vehicle without exceeding the \$450 cost limit. The department is required to develop and implement either a repair subsidy program or a program that would provide for a 12-month economic hardship extension for motor vehicles from the biennial certificate of compliance requirement under specified circumstances, as prescribed.

A violation of any provision relating to those requirements is a misdemeanor.

This bill would repeal certain provisions regarding the economic hardship extension program. The bill would change references to “emission cost waiver” to “repair cost waiver,” and would require that such a waiver be issued only upon request of the vehicle owner. The bill would prohibit the issuance of a repair cost waiver until all appropriate emissions-related partial repairs up to the amount of the repair cost limit have been performed.

The bill would lower the \$450 repair cost limit to \$200 or \$250, as specified, for motor vehicle owners that qualify as low income. The bill would subject any person who obtains or attempts to obtain a repair cost waiver by falsifying information to a civil penalty of not less than \$150 and not more than \$1,000, and would prohibit them from receiving any repair assistance pursuant to specified existing law. The bill would create a state-mandated local program by creating new crimes or changing the definition of existing crimes.

(2) Existing law requires the testing and repair portion of the smog check program to be conducted by licensed smog check stations, and authorizes a station to be licensed as a smog check test-only station.

This bill would, *subject to a specified condition*, require the department to provide for low-income repair assistance through gold shield stations, as specified.



(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would become operative only if both AB 208 and AB 1492 are enacted and take effect on or before January 1, 1998.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44001.3 is added to the Health  
2 and Safety Code, to read:

3 44001.3. The Legislature hereby finds and declares as  
4 follows:

5 (a) Under the state's previous smog check program, a  
6 motor vehicle owner could obtain unlimited repair cost  
7 waivers and, therefore, avoid repair of a polluting vehicle.

8 (b) As a result, many vehicles were reregistered year  
9 after year and allowed to continue to pollute the air.

10 (c) Repairing high-polluting and gross polluting  
11 vehicles (which pollute 2 to 25 times more than the  
12 average vehicle that passes a smog check) could  
13 significantly improve California air quality and allow the  
14 state to meet federal clean air goals.

15 (d) The existing cost limit for smog repairs is a  
16 minimum of four hundred fifty dollars (\$450) in all areas  
17 where Smog Check II operates; fifty dollars (\$50) to three  
18 hundred dollars (\$300) based on the model year of the  
19 vehicle where Smog Check II is not fully implemented;  
20 and no cost limit for the repair of gross polluting vehicles.

21 (e) Without state financial assistance to repair a  
22 vehicle, a low-income vehicle owner is forced to either  
23 scrap the vehicle or drive an unregistered vehicle.

24 SEC. 2. Section 44015 of the Health and Safety Code  
25 is amended to read:

1 44015. (a) A licensed smog check station shall not  
2 issue a certificate of compliance, except as authorized by  
3 this chapter, to any vehicle that meets the following  
4 criteria:

5 (1) A vehicle that has been tampered with.

6 (2) A vehicle that, prior to repairs, has been initially  
7 identified by the smog check station as a gross polluter.  
8 Certification of a gross polluting vehicle shall be  
9 conducted by a designated test-only facility, or a  
10 test-and-repair station that is both licensed and certified  
11 pursuant to Section 44014 and 44014.2 and is participating  
12 in the pilot program pursuant to subparagraph (B) of  
13 paragraph ~~(3)~~ (2) of subdivision (g) of Section 44014.5.

14 (3) A vehicle described in subdivision (c).

15 (b) If a vehicle meets the requirements of Section  
16 44012, a smog check station licensed to issue certificates  
17 shall issue a certificate of compliance or a certificate of  
18 noncompliance.

19 (c) (1) A repair cost waiver shall be issued, upon  
20 request of the vehicle owner, by a gold shield station or  
21 a test-only facility authorized to perform referee  
22 functions for a vehicle that has been properly tested but  
23 does not meet the applicable emission standards when it  
24 is determined that no adjustment or repair can be made  
25 that will reduce emissions from the inspected motor  
26 vehicle without exceeding the applicable repair cost limit  
27 established under Section 44017 and that every defect  
28 specified by paragraph (2) of subdivision (a) of Section  
29 43204, and by paragraphs (2) and (3) of subdivision (a)  
30 of Section 43205, has been corrected. A repair cost waiver  
31 issued pursuant to this paragraph shall be accepted in lieu  
32 of a certificate of compliance for the purposes of  
33 compliance with Section 4000.3 of the Vehicle Code.

34 (2) A low-income repair cost waiver shall be issued,  
35 upon request of a qualified low-income motor vehicle  
36 owner, by a gold shield facility, or a test-only facility  
37 authorized to perform referee functions, for a motor  
38 vehicle that has been properly tested but does not meet  
39 the applicable emission standards when it is determined  
40 that no adjustment or repair can be made that will reduce

1 emissions from the inspected motor vehicle without  
2 exceeding the applicable repair cost limit, as established  
3 pursuant to Section 44017.1, and that every defect  
4 specified in paragraph (2) of subdivision (a) of Section  
5 43204, and in paragraphs (2) and (3) of subdivision (a) of  
6 Section 43205, has been corrected.

7 (d) No repair cost waiver shall be issued under any of  
8 the following circumstances:

9 (1) If a motor vehicle was issued a repair cost waiver  
10 in the previous biennial inspection of that vehicle. A  
11 repair cost waiver may be issued to a motor vehicle owner  
12 only once for a particular motor vehicle belonging to that  
13 owner. However, a repair cost waiver may be issued for  
14 a motor vehicle that participated in a previous waiver or  
15 extension program prior to January 1, 1998, as determined  
16 by the department. For waivers issued in the waiver  
17 program operative on or after January 1, 1998, a waiver  
18 may be issued for a motor vehicle only once per owner.  
19 No repair cost waiver shall exceed two years' duration.

20 (2) Upon initial registration of all of the following: a  
21 direct import motor vehicle, a motor vehicle previously  
22 registered outside this state, a dismantled motor vehicle  
23 pursuant to Section 11519 of the Vehicle Code, a motor  
24 vehicle that has had an engine change, an alternate fuel  
25 vehicle, and a specially constructed vehicle.

26 (3) Unless all appropriate emissions-related partial  
27 repairs at least equal to the amount of the applicable  
28 repair cost limit in Section 44017 or Section 44017.1, if  
29 applicable, have been performed.

30 (e) A certificate of compliance or noncompliance shall  
31 be valid for 90 days.

32 (f) A test may be made at any time within 90 days prior  
33 to the date otherwise required.

34 SEC. 3. Section 44015.3 of the Health and Safety Code  
35 is repealed.

36 SEC. 4. Section 44017 of the Health and Safety Code  
37 is amended to read:

38 44017. (a) Except as otherwise provided in this  
39 section or Section 44017.1, the cost limit for repairs under  
40 the program, including parts and labor, shall be a

1 minimum of four hundred fifty dollars (\$450) in all areas  
2 where the program operates.

3 (b) The limit established pursuant to subdivision (a)  
4 shall not become operative until the department issues a  
5 public notice declaring that the program established  
6 pursuant to Section 44010.5 is operational in the relevant  
7 geographical areas of the state, or until the date that  
8 testing in those geographic areas is operative using loaded  
9 mode test equipment, as defined in this article,  
10 whichever occurs first. Prior to that time, the following  
11 cost limits shall remain in effect:

12 (1) For motor vehicles of 1971 and earlier model years,  
13 fifty dollars (\$50).

14 (2) For motor vehicles of 1972 to 1974, inclusive, model  
15 years, ninety dollars (\$90).

16 (3) For motor vehicles of 1975 to 1979, inclusive, model  
17 years, one hundred twenty-five dollars (\$125).

18 (4) For motor vehicles of 1980 to 1989, inclusive, model  
19 years, one hundred seventy-five dollars (\$175).

20 (5) For motor vehicles of 1990 to 1995, inclusive model  
21 years, three hundred dollars (\$300).

22 (6) For motor vehicles of 1996 and later model years,  
23 four hundred fifty dollars (\$450).

24 (c) The department shall periodically revise the  
25 repair cost limits specified in subdivisions (a) and (b) in  
26 accordance with changes in the Consumer Price Index,  
27 as published by the United States Bureau of Labor  
28 Statistics.

29 (d) If insufficient funds are available to adequately  
30 fund the low-income repair assistance program during  
31 any year, the repair cost limits shall revert to those  
32 specified in subdivision (b).

33 (e) No repair cost limit shall be imposed in those cases  
34 where emissions control equipment is missing or is  
35 partially or totally inoperative as a result of being  
36 tampered with.

37 SEC. 5. Section 44017.1 is added to the Health and  
38 Safety Code, to read:

39 ~~44017.1. Notwithstanding subdivision (a) of Section~~  
40 ~~44017, for motor vehicle owners qualified as low income~~

1 44017.1. (a) For purposes of this section,  
2 “low-income motor vehicle owner” means a person  
3 whose income does not exceed the average annual  
4 income for workers in California as most recently  
5 reported by the federal Bureau of Labor Statistics.

6 (b) Notwithstanding subdivision (a) of Section 44017,  
7 for low-income motor vehicle owners qualified under  
8 Section 44062.1, the repair cost limit, including parts and  
9 labor, shall be a minimum of two hundred dollars (\$200)  
10 in all areas where the program operates. However, the  
11 department may increase that minimum, to not more  
12 than two hundred fifty dollars (\$250), if the department  
13 determines that the program is not cost-effective.

14 (c) Until such time as a low-income repair assistance  
15 program becomes effective pursuant to Section 44062.1,  
16 a repair cost waiver shall be issued to a qualified  
17 low-income motor vehicle owner whose motor vehicle  
18 has been tested but does not meet applicable emissions  
19 standards and the necessary repairs exceed the repair cost  
20 limit specified in subdivision (b).

21 SEC. 6. Section 44056 of the Health and Safety Code  
22 is amended to read:

23 44056. (a) Except as otherwise provided in Sections  
24 44051 and 44051.5, any person who violates this chapter,  
25 or any order, rule, or regulation of the department  
26 adopted pursuant to this chapter, is liable for a civil  
27 penalty of not less than one hundred fifty dollars (\$150)  
28 and not more than two thousand five hundred dollars  
29 (\$2,500) for each day in which each violation occurs. Any  
30 action to recover civil penalties shall be brought by the  
31 Attorney General in the name of the state on behalf of the  
32 department, or may be brought by any district attorney,  
33 city attorney, or attorney for a district.

34 (b) The penalties specified in subdivision (a) do not  
35 apply to an owner or operator of a motor vehicle, except  
36 an owner or operator who does any of the following:

37 (1) Obtains, or who attempts to obtain, a certificate of  
38 compliance or noncompliance or a repair cost waiver  
39 without complying with Section 44015.

(2) Obtains, or attempts to obtain, a certificate of compliance, or a repair cost waiver by means of fraud, including, but not limited to, offering or giving any form of financial or other inducement to any person for the purpose of obtaining a certificate of compliance for a vehicle that has not been tested or has been tested improperly.

(3) Registers a motor vehicle at an address other than the owner's or operator's residence address for the purpose of avoiding the requirements of this chapter.

(4) Obtains, or attempts to obtain, a certificate of compliance by other means when required to report to the test-only facility after being identified as a tampered vehicle or gross polluter pursuant to Section 44015 or 44081.

(c) Any person who obtains or attempts to obtain a repair cost waiver pursuant to this chapter by falsifying information shall be subject to a civil penalty of not less than one hundred fifty dollars (\$150) and not more than one thousand dollars (\$1,000), and shall be made ineligible for receiving any repair assistance of any kind pursuant to this chapter.

SEC. 7. Section 44062.1 of the Health and Safety Code, as amended by Section 13 of Chapter 982 of the Statutes of 1995, is repealed.

SEC. 8. Section 44062.1 of the Health and Safety Code, as amended by Section 14 of Chapter 982 of the Statutes of 1995, is repealed.

SEC. 9. Section 44062.1 of the Health and Safety Code, as amended by Section 15 of Chapter 982 of the Statutes of 1995, is repealed.

SEC. 10. Section 44062.1 is added to the Health and Safety Code, to read:

44062.1. (a) The department shall offer a low-income repair assistance program beginning March 1, 1998, through gold shield stations.

(b) ~~The department shall establish~~ *repair assistance program* eligibility criteria and requirements and repair assistance funding limits *shall be* based upon the average estimated cost of repairs and the availability of funds. An



1 applicant for low-income repair assistance shall file an  
2 application on a form prescribed by the department and  
3 shall certify under penalty of perjury that the applicant  
4 meets the applicable eligibility standards.

5 (c) The department shall audit applications for  
6 low-income cost waivers and certification of low-income  
7 eligibility.

8 (d) All repairs subsidized by the state through the  
9 program shall be performed at a repair station licensed  
10 and certified pursuant to Sections 44014 and 44014.2 at the  
11 time of testing and application for a repair cost waiver.  
12 Repair shall be based upon a preapproved list of repairs  
13 for cost-effective emission reductions.

14 (e) The qualified low-income motor vehicle owner  
15 receiving repair assistance pursuant to this section shall  
16 contribute a total of two hundred dollars (\$200), or more,  
17 but not to exceed two hundred fifty dollars (\$250), as  
18 determined by the department as specified in Section  
19 44017.1, either in cash, or in emissions-related partial  
20 repairs as verified by a test-only station pursuant to  
21 paragraph (2) of subdivision (c) of Section 44015, or a  
22 combination thereof.

23 (f) The department shall collect data from the  
24 program to provide information on how to improve the  
25 program. Data collection shall include all of the following:

26 (1) The number of low-income *motor* vehicle owners  
27 that are eligible for repair assistance.

28 (2) The number of eligible vehicle owners that use  
29 repair assistance funds.

30 (3) The potential for fraud.

31 (4) The average repair bills.

32 (5) The types of repairs being done.

33 (6) The amount of partial repairs done prior to receipt  
34 of repair assistance.

35 (7) The emissions benefits of providing repair  
36 assistance.

37 (g) The department shall collect data and develop  
38 information and shall report to the Legislature on or  
39 before April 1, 1999, on eligibility criteria, program

1 participation, the cost of vehicle repairs, and the funding  
2 resources needed to implement the program.

3 *(h) For purposes of this section, “low-income motor*  
4 *vehicle owner” means a person whose income does not*  
5 *exceed the average annual income for workers in*  
6 *California as most recently reported by the federal*  
7 *Bureau of Labor Statistics.*

8 *(i) Notwithstanding subdivision (a), the repair*  
9 *assistance program shall not be operative until the*  
10 *department and the bureau jointly prepare and submit to*  
11 *the Legislature proposed eligibility criteria,*  
12 *requirements, and funding limits for repair assistance and*  
13 *identify funding sources sufficient to pay the estimated*  
14 *costs of the repair assistance program, and the Legislature*  
15 *enacts provisions establishing those criteria,*  
16 *requirements, and funding sources.*

17 SEC. 11. Section 44091 of the Health and Safety Code  
18 is amended to read:

19 44091. (a) The High Polluter Repair or Removal  
20 Account is hereby created in the Vehicle Inspection and  
21 Repair Fund. All money deposited in the account  
22 pursuant to this article and subdivision (d) of Section 6262  
23 of the Revenue and Taxation Code shall be available,  
24 upon appropriation by the Legislature, to the  
25 department and the state board to establish and  
26 implement a program for the repair or replacement of  
27 high polluters pursuant to this article and Article 10  
28 (commencing with Section 44100).

29 (b) The department may accept donations or grants of  
30 funds from any person for purposes of the program and  
31 shall deposit that money in the account. Donations,  
32 grants, or other commitments of money to the account  
33 may be dedicated for specific purposes consistent with  
34 the uses of the account, including, but not limited to,  
35 purchasing higher emitting vehicles for the purpose of  
36 achieving the emission reductions required by the M-1  
37 strategy of the 1994 state implementation plan (SIP).

38 (c) The funds which are available in the account in any  
39 fiscal year for a particular area that is subject to an  
40 inspection and maintenance program shall be

1 determined by calculating the percentage of vehicles  
2 registered in that area to the total number of vehicles  
3 registered in areas that are subject to inspection and  
4 maintenance programs. That percentage shall be the  
5 percentage of the total funds allocated to the program in  
6 that fiscal year which are available for that particular  
7 area.

8 (d) During any fiscal year, the percentage of money in  
9 the account expended for repair assistance, removal and  
10 related administration costs, shall be set by the  
11 department and, shall be available for the following  
12 purposes in the following amounts:

13 (1) Until the emission reductions required by the M-1  
14 strategy of the 1994 SIP are achieved, 50 percent of the  
15 funds deposited in the account pursuant to paragraphs  
16 (1) and (2) of subdivision (b) of Section 4000.7 of the  
17 Vehicle Code that are allocated to the south coast district  
18 area pursuant to subdivision (c), plus all other money  
19 deposited in the account and dedicated to achieving the  
20 emission reductions required by the M-1 strategy of the  
21 1994 SIP, shall be available to the state board for the  
22 purposes described in subdivision (b) of Section 44104. All  
23 emission reductions achieved by using the funds  
24 described in this paragraph shall be credited to the M-1  
25 strategy. Funds allocated for purposes of this paragraph  
26 that are unused in any fiscal year shall be carried over to  
27 achieve the M-1 emission reduction objectives in  
28 subsequent years.

29 (2) Funds appropriated pursuant to subdivision (a) of  
30 Section 44104 shall be available to the state board for the  
31 purpose of performing the rulemaking, vehicle testing,  
32 and other technical work required to implement the  
33 program described in Article 10 (commencing with  
34 Section 44100).

35 (3) The balance of this portion of the account shall be  
36 available to the department for repairing or removing  
37 high-emitting vehicles, and shall be apportioned based on  
38 the relative cost-effectiveness of repair or removal, as  
39 determined by the department.

1 (e) In no case shall the funding available in any  
2 subsequent fiscal year to the department for repairing or  
3 removing high-emitting vehicles under the inspection  
4 and maintenance program be less than the amount made  
5 available from the Vehicle Inspection and Repair Fund  
6 for that purpose in the 1995–96 fiscal year.

7 SEC. 12. No reimbursement is required by this act  
8 pursuant to Section 6 of Article XIII B of the California  
9 Constitution because the only costs that may be incurred  
10 by a local agency or school district will be incurred  
11 because this act creates a new crime or infraction,  
12 eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition  
15 of a crime within the meaning of Section 6 of Article  
16 XIII B of the California Constitution.

17 Notwithstanding Section 17580 of the Government  
18 Code, unless otherwise specified, the provisions of this act  
19 shall become operative on the same date that the act  
20 takes effect pursuant to the California Constitution.

21 SEC. 13. This act shall become operative only if both  
22 Assembly Bill 208 and Assembly Bill 1492 of the 1997–98  
23 Regular Session of the Legislature are enacted and take  
24 effect on or before January 1, 1998.

